

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Michael Thomas Dolan Sr.,

Debtor.

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Case Number: 23-72809-las

Chapter 13

**NOTICE OF MOTION FOR ORDER
AUTHORIZING THE WITHDRAWAL AND SUBSTITUTION
OF PHILLIPS, ARTURA & COX AS COUNSEL TO THE DEBTOR**

PLEASE TAKE NOTICE that upon the annexed affirmation of RICHARD F. ARTURA a motion pursuant will be made as set forth below:

JUDGE: Hon. Louis A Scarcella

RETURN DATE AND TIME: January 9, 2024 at 10:00 am

PLACE: U.S. Bankruptcy Court
290 Federal Plaza, Room 970
Central Islip, NY 11722

RELIEF REQUESTED: An Order To approve the withdrawal of Phillips, Artura & Cox as Counsel to the debtor, Michael Thomas Dolan Sr and the substitution of Michael Thomas Dolan Sr , *pro se* and for such other relief as this Court deems just proper

Dated: December 4, 2023
Lindenhurst, New York

S/RICHARD F. ARTURA, ESQ.

RICHARD F. ARTURA, ESQ.

Phillips, Artura & Cox

Attorneys for Debtor(s)

165 South Wellwood Avenue

Lindenhurst, NY 11757

(631) 226-2100

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AFFIRMATION

Richard F. Artura, Esq. bankruptcy counsel to the debtor, Michael Thomas Dolan Sr., respectfully, represents as follows:

1. On August 1, 2023, the debtor filed a *pro se* “skeleton” petition for relief pursuant to chapter 13 of title 11 of the United States Code. This was his fourth filing.
2. Michael J. Macco was appointed as the Chapter 13 Trustee in this case.
3. The undersigned filed a Notice of Appearance on August 17, 2023 and soon after filed schedules and a Chapter 13 “Modification” plan and made application to the lender for a modification of debtors mortgage.
4. After hearing, the court overruled debtor’s objections and granted lenders *in rem* stay relief motion on October 19, 2023
5. On October 20, 2023 the debtor in a *pro se* capacity filed a “Motion to Dismiss Case” wherein he stated, “I’ve officially released my attorney Richard Artura on 10/18/23 who no longer represents me in any capacity.”
6. The Court dismissed the case upon the trustee’s motion on October 26, 2023 and barred the debtor from refiling until April 23, 2024.
7. On November 7, 2023 the debtor again in a *pro se* capacity filed a Notice of Appeal and a Motion to Stay Order Pending.

8. By this Application, we move for an order pursuant to Rule 2090-1(e) of the Local Rules for the Eastern District of New York for authority to withdraw as bankruptcy counsel in this case. Local Rule 2090-1(d) provides that “[a]n attorney who has appeared as attorney of record may withdraw or be replaced only by order of the Court for cause shown.” Your applicant believes there is ample cause for the relief requested as the Debtor has stated on the record of his release of my firm and is actively acting as a *pro se* litigant.

9. Cause for withdrawal has been found where, as here, the attorney-client relationship has become unproductive. *Kolomick v. Kolomick*, 133 A.D.2d 69(2d Dept. 1987).

10. It is requested that the Court waive and dispense with the requirement set forth in Rule 9013-1(b) of the local Bankruptcy Rules that any motion filed shall have an accompanying memorandum, as this does not raise any novel issue of law. Accordingly, it is submitted that a waiver of Local Rule 9013-1(b) requirement is appropriate under the circumstances.

11. Applicant has given notice of this Motion to (i) the Debtor (ii) the Chapter 13 Trustee; (iii) the United States Trustee and (iv) 21st Mortgage Corporation.

12. It is submitted that no other or further notice of the relief requested is necessary or required.

WHEREFORE, Applicant respectfully requests entry of the proposed Order annexed hereto, authorizing Applicant to withdraw as counsel to the Chapter 13 Debtor and for such other and further relief as the Court deems just and proper.

Dated: December 4, 2023
Lindenhurst, New York

PHILLIPS, ARTURA & COX

By: S/Richard F. Artura, Esq.
Richard F. Artura, Esq.
165 South Wellwood Avenue
Lindenhurst, NY 11757
(631) 226-2100

TO:

Michael Thomas Dolan Sr.
21 Kent Place
Smithtown, NY 11787-2110

Michael J. Macco, Trustee
2950 Express Drive South
Suite 109
Islandia, NY 11749

Office of the United States Trustee
Long Island Federal Courthouse
560 Federal Plaza, Room 560
Central Islip, NY 11722-4437

Attention: Karren Sheehan, Esq.
Frenkel Lambert Weiss Weisman & Gordon LLP
53 Gibson Street
Bay Shore, NY 11706-8369